Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) G0126.0242	
	Application Number 10/553,700-Conf. #1998	Filed October 17, 2005
	First Named Inventor Atsushi Murashima	
	Art Unit 2626	Examiner D. D. Abebe

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [ ] attorney or agent of record. Registration number _____
- [x] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. 38,586

Joseph W. Ragusa
Signature

Joseph W. Ragusa
Typed or printed name

(212) 277-6500
Telephone number

November 9, 2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

Docket No.: G0126.0242
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Atsushi Murashima

Application No.: 10/553,700

Confirmation No.: 1998

Filed: October 17, 2005

Art Unit: 2626

For: CODE CONVERSION METHOD AND DEVICE, PROGRAM, AND RECORDING MEDIUM

Examiner: D. D. Abebe

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests a review of the legal and factual bases for the rejections in the above-identified patent application. Pursuant to the guidelines set forth in the Official Gazette Notice of July 12, 2005, for the Pre-Appeal Brief Conference Program, as extended by Official Gazette Notice of February 7, 2006, favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

Claims 1, 5, 9, 13, 14 and 23-29 are pending. Claims 1, 5, 9 and 27-29 are the independent claims. Favorable reconsideration is respectfully requested.

Claims 1, 5, 9, 13, 14 and 23-29 were rejected under 35 U.S.C. § 102(a) over U.S. Patent 7,222,069 (Suzuki et al.). Applicant respectfully submits that the rejection of these claims is improper for the reasons set forth in detail below.

In independent claims 1, 5 and 9, a first code string input, encoded according to an encoder, is input to a decoder, which decodes the first code string. This *decoded* signal is then encoded. The encoding of the decoded signal is performed based upon a judgment as to whether the decoded signal is an audio signal or a non-audio signal, the judgment having been made on the basis of information contained in the undecoded first code string. Thus, according to the independent claims, the encoding of *a decoded* first code string is performed on the basis of a judgment made based upon information in the undecoded first code string.

For example, claim 1 recites, inter alia:

> "judging whether the decoded signal is an audio signal or a non-audio signal by using information contained in the undecoded first code string, and encoding the decoded signal in accordance with an encoding method on the basis of ***the*** judgment to generate a second code string, . . . " (emphasis supplied)

"[T]he judgment" is a judgment that uses information in the undecoded first code string. Thus, the judging step requires: (1) that encoding is performed upon a decoded signal; and (2) the encoding of this decoded signal is performed on the basis of a judgment made using information from the undecoded first string. At a minimum, for Suzuki to meet this limitation would require that it show a device or method that includes *both* of these features. Suzuki et al., however, contains no such teaching or suggestion.

Suzuki et al. shows two completely different devices for code conversion: (a) the prior system of Figure 33 (hereinafter "Suzuki's prior art"), in which code conversion is performed by using a "tandem connection" in which voice code conversion unit 55 includes a decoder of encoding method one (55a), allowing it to reproduce voice which had been encoded by a first encoding method, and an encoder of encoding method two (55b), allowing it to encode the voice decoded by element 55a according to a second encoding method; and (b) Suzuki's own invention (hereinafter "Suzuki's invention"), shown, e.g., in Figure 1 and other figures, in which an encoded signal according to a first encoding method is converted, *without the use of decoding*, directly into an encoded signal according to a second encoding method. These systems are completely separate systems and neither system contains all of the recited limitations of the claim. Moreover, as will

discussed below, there would be no reason to combine elements of these two devices, and in fact, Suzuki teaches away from doing so.

First, as was explained in the Amendment in Response to Non-Final Office Action filed May 27, 2009, Suzuki's invention relates to converting an encoded signal that has been encoded according to a first encoding method *directly* into an encoded signal encoded according to a second encoding method, without an intervening decoding step.

In fact, the key element of Suzuki's invention is that his method does *not* encode a decoded signal. Skipping this step, according to Suzuki, solves the problem of degradation that occurs in code conversion when an input signal is first decoded (i.e., converted back to audio) and then re-encoded, e.g., according to a different encoding method as was the case in Suzuki's prior art. See Suzuki et al., col. 8, lines 7-14.

Instead of decoding the signal to a decoded signal, and then re-encoding the decoded signal according a second encoding method, as in Suzuki's prior art, Suzuki's invention converts the encoded input signal (according to a first encoding method) *directly* into an encoded output signal (according to a second encoding method).

In contrast to this method, in independent claims 1, 5 and 9, it is a *decoded signal* that is encoded, which is a step that Suzuki et al.'s method specifically and intentionally avoids performing. Thus, Suzuki's invention does not encode the decoded signal, as claimed.

Second, based on the foregoing, it is clear that Suzuki's invention also does not encode *the decoded signal based on a judgment relating to the undecoded first code string.* That is, while Suzuki's invention may use parameters from the undecoded first code string, for its *direct* conversion, it does *not* do so in the claimed manner. The parameters from the undecoded first code string in Suzuki's invention are *not used in encoding a decoded code string*, at least because Suzuki's invention *does not encode a decoded code string* at all.

That is, in Suzuki's voice code apparatus, voice code obtained by a first encoding method is input for converting this voice code to a voice code of a second voice encoding method. To this end, code converters are used to dequantize the codes of each of the components and to quantize the dequantized values by the second voice encoding method. Suzuki's invention does not teach carrying out the coding and decoding as recited in the claims, nor does it include any teaching about judging whether the decoded signal is an audio signal or a non-audio signal.

As to Suzuki's prior art, shown in Figure 33, that device also does not have all of the elements of the independent claims. For one thing, while the device of Figure 33 does show encoding of a decoded signal, in that encoder 55b encodes the signal from decoder 55a, it does not teach, inter alia, the judging step of claim 1.

That is, there is no teaching or suggestion in Suzuki's prior art that in this device (1) encoding is performed upon a decoded signal; ***and*** (2) that the encoding of this decoded signal is performed on the basis of a judgment made *using information from the undecoded first string.* The description of Figure 33 only indicates that the decoding of decoder 55a is based on the *decoded* first string 51' that is input into that element. There is no indication that the decoding of decoder 55a is performed on the basis of the unencoded first string.

Thus, neither of the separate devices shown in the Suzuki et al. patent teach the elements of the independent claims discussed above.

The Response to Arguments section of the Final Office Action appears to recognize that Suzuki's invention explicitly teaches not to encode a decoded signal. Moreover, no reason has been presented why one of ordinary skill in the art would somehow combine elements from these two separate devices, i.e., the device of prior art Figure 33 and that of Suzuki's invention (e.g., Figure 1) to overcome the abovementioned deficiencies of the devices shown in Suzuki et al.'s patent.

And of course there could be no such motivation or reason for doing so, as Suzuki's invention purposely jettisons the use of encoding a decoded signal, and in fact specifically teaches away from its use.

In summary, Suzuki et al. provides no teaching of any code conversion device that includes all of the limitations of the independent claims discussed above. For at least the foregoing reasons, independent claims 1, 5 and 9 are believed clearly patentable over Suzuki et al.

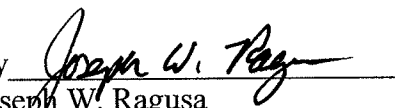
Independent claims 27-29 also recite encoding of the decoded signal, and are believed allowable over the prior art for at least this reason as well. The dependent claims are believed patentable for at least the same reasons as their respective base claims.

In view of the foregoing, Applicant respectfully submits that the pending claims are patentable over the cited references. Furthermore, Applicant respectfully requests that the pending rejections be withdrawn and a Notice of Allowance issued.

In the event a fee is required or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2215.

Dated: November 9, 2009

Respectfully submitted,

By 

Joseph W. Ragusa
Registration No.: 38,586
DICKSTEIN SHAPIRO LLP
1633 Broadway
New York, New York 10019-6708
(212) 277-6500
Attorney for Applicant